

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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LEXINGTON INSURANCE COMPANY as subrogee of
BP/CG Center I, LLC, BP/CG II, LLC, Citigroup Center
Condominium, and all other named insureds under policy
number 8753820,

Case No.: 08 CV 6563
(GBD (THK))

Plaintiffs,

-against-

**ANSWER TO
CROSS-CLAIMS**

LOCHINVAR CORPORATION, SOUTH ERIE
PRODUCTION COMPANY doing business as SEPCO-
ERIE and S. DIGIACOMO & SON, INC.,

-----X

Defendant, **S. DIGIACOMO & SON, INC.**, by its attorneys, FRENCH & RAPTER,
LLP, as and for its Answer to Defendant **LOCHINVAR CORPORATION'S** Cross-Claims, alleges
as follows:

AS AND FOR A RESPONSE TO THE FIRST CROSS-CLAIM

1. Denies the allegations contained in paragraphs designated "30", and "31".

AS AND FOR A RESPONSE TO THE SECOND CROSS-CLAIM

2. Denies the allegations contained in paragraphs designated "32", "33", and "34".

WHEREFORE, Defendant **S. DiGiacomo & Son, Inc.** demands judgment dismissing the
Cross-Claims of Defendant **Lochinvar Corporation** in this action, together with the costs and
disbursements of this action.

Dated: New York, New York
August 27, 2008

Yours, etc.,

FRENCH & RAFTER, LLP

BY:

Beth R
Beth Rex (BR 2025)
Attorneys for Defendant
S. DiGiacomo & Son, Inc.
29 Broadway, 27th Floor
New York, New York 10006
(212) 797-3544
File No.: 8400.1152

TO:

David Scott Smith, Esq.
Gwertzman Lefkowitz Burman Smith & Marcus
Attorneys for Plaintiffs
80 Broad Street – 16th Floor
New York, New York 10004
(212) 968-1001

Roland Theodoor Koke, Esq.
Rende, Ryan & Downes, LLP
Attorneys for Defendants
LOCHINVAR CORPORATION,
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444

SOUTH ERIE PRODUCTION COMPANY
d/b/a SEPCO-ERIE
1221 Robinson Road
Erie, PA 16509

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
)ss:
COUNTY OF NEW YORK)

SANDY PEÑA, being duly sworn, deposes and says:

That I am not a party to the within action, am over 18 years of age and reside in Queens County, New York.

That on August 27, 2008, deponent served the within **ANSWER TO CROSS-CLAIMS** upon the attorneys and parties listed below by United States prepaid mail by placing same in a mailbox in the State of New York to:

David Scott Smith, Esq.
Gwertzman Lefkowitz Burman
Smith & Marcus
Attorneys for Plaintiffs
80 Broad Street – 16th Floor
New York, New York 10004
(212) 968-1001

Roland Theodoor Koke, Esq.
Rende, Ryan & Downes, LLP
Attorneys for Defendants
LOCHINVAR CORPORATION,
202 Mamaroneck Avenue
White Plains, New York 10601
(914) 681-0444

SOUTH ERIE PRODUCTION COMPANY
d/b/a SEPCO-ERIE
1221 Robinson Road
Erie, PA 16509



SANDY PEÑA

Sworn to before me this
27TH day of August, 2008



BETH REX

NOTARY PUBLIC

BETH REX
Notary Public, State of New York
No. 31-4928883
Qualified in New York County
Commission Expires April 4, 2010

Case No.: 08 CV 6563

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Plaintiffs,

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LOCHINVAR CORPORATION, SOUTH ERIE PRODUCTION COMPANY doing
business as SEPCO-ERIE and S. DIGIACOMO & SON, INC.,

ANSWER TO CROSS-CLAIMS

FRENCH & RAFTER, LLP

Attorneys for Defendant

S. DiGiacomo & Son, Inc.

**29 BROADWAY
NEW YORK, NEW YORK 10006
TELEPHONE (212) 797-3544**